Filed 9/23/14 In re D.G. CA2/8

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re D.G. et al., Persons Coming Under the Juvenile Court Law.	B252737
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. B.G., Defendant and Appellant.	(Los Angeles County Super. Ct. No. CK86801)

APPEAL from an order of the Superior Court of Los Angeles County. Carlos Vasquez, Judge. Affirmed.

Aida Aslanian, under appointment by the Court of Appeal, for Appellant.

John F. Krattli, County Counsel, Dawyn R. Harrison, Assistant County Counsel, and John C. Savittieri, Deputy County Counsel.

Father B.G. appeals from the juvenile court's finding at a six-month review hearing that he had been provided reasonable reunification services despite the fact that there was a three-month delay in providing him court-ordered transportation funds to allow him to attend substance abuse counseling. We affirm the order because substantial evidence shows the time-lag was reasonable under the circumstances and did not prevent father from enrolling in substance abuse and other counseling programs.

FACTS AND PROCEDURAL HISTORY

On March 13, 2013, the juvenile court took jurisdiction of minors D.G., A.G., and E.G. after mother K.L. and father B.G. pled no contest to a petition filed by the Los Angeles County Department of Children and Family Services (DCFS) alleging that: (1) mother and her live-in companion had a violent confrontation that ended with mother stabbing her companion; and (2) father, who did not live with mother or the children, had a serious substance abuse problem that made him incapable or caring for the children. (Welf. & Inst. Code, § 300, subd. (b).)[1] The juvenile court ordered reunification services for both parents, including transportation assistance, and also ordered father to attend substance abuse counseling.

A DCFS report prepared for a May 28, 2013, hearing noted that father had not yet enrolled in any programs and needed transportation. Father also told the social worker "he does not know why he has to do anything because the children were removed from mother." At the May 28 hearing father's counsel told the court that father could not drive because he was epileptic and needed transportation assistance. According to counsel, there was some confusion on the part of DCFS because father lived in Riverside County. Father told the court that the social worker said she could not issue a check to Riverside County because she worked in Los Angeles County. The trial court ordered DCFS to use best efforts to provide father with transportation funds "if that is possible."

---

[1] All further section references are to the Welfare and Institutions Code.

A DCFS report prepared for a September 13, 2013, hearing stated that father was given referrals for a 12-step program on May 23, 2013, received a $50 check to buy a bus pass on August 27, but as of September 11, had not provided proof of enrollment in the court-ordered program. According to the report, father lived in a "nice, one bedroom apartment" in Riverside and received $900 a month in disability payments. At the September 13 hearing father's lawyer claimed father had not received the bus pass check "until this week," and was therefore unable to enroll in any programs. Based on that, father contended he had not received reasonable reunification services. The court set the matter for a contested hearing on that issue on November 4, 2013. The court again ordered DCFS to provide father with transportation services.

A DCFS report prepared for the November 4 hearing stated that father had not attended any substance abuse counseling meetings. The social worker phoned father on October 19, 2013, and left a message for father to call. The social worker phoned again on October 25 and was finally able to reach father. The social worker asked if father had found somewhere to attend counseling. "Father responded by saying that he had not found a place and that we are going to make him look bad in court. He stated 'you guys don't know what I am going through and I see my kids every day. I have been walking the streets asking people where these places are.' " When the social worker asked father if he had called any of the referrals he had already been given, father said, "I was in the middle of calling when you called me." According to the social worker, father was slurring his words and sounded intoxicated and agitated. The social worker mailed father more referrals.

The DCFS report also explained the initial delay in providing father transportation funds. DCFS provides bus passes for clients in Los Angeles County and changed its procedure for providing transportation funds for clients living outside the county. "Due to changes in policy it took some time to have a check approved for father. In the past, [DCFS] would write an in-house check but now the checks are . . . through Special Payments. When you put in a request it could take up to two weeks to three weeks before receiving the check."

The report ended by stating that even though father regularly visits the children, he had not begun substance abuse counseling. "Father has complained several times to [DCFS] about how the case is not about him and that the children were taken away from mother and not him. On [July 25, 2013 the social worker] detected the smell of alcohol on father that was being covered up by cologne. Father's eyes were red. Father talked about how he does not like how the court is running his life." DCFS recommended that reunification services continue.

At the November 4, 2013, hearing father's counsel argued that father had not received reasonable reunification services, and claimed that father had "just now" enrolled in programs. No proof of enrollment was offered. Father asked the court to extend the reunification period for an additional six months due to the delay in providing transportation funds.

Counsel for DCFS pointed out that mother had experienced the same delay in receiving transportation funds and had still been able to enroll in the various programs she had been ordered to attend. DCFS noted that father sounded agitated and intoxicated during a recent phone conversation with the social worker and argued that father was disingenuous for blaming DCFS for his inability to begin counseling. Counsel for the minors noted that the absence of transportation assistance from DCFS did not prevent father from visiting the children regularly even though they lived some distance away.

The trial court said it would not make a finding that reunification services had been unreasonable "based upon the totality that I have before me." The court found that father was only in partial compliance with its counseling orders, continued reunification services, and found a substantial probability that the children would be returned to the parents by the one-year permanent plan hearing. The court also found that the parents regularly visited the children and had made significant progress in resolving the problems that led the court to assume jurisdiction.[2]

---

[2] Respondent asks us to treat this as a nonappealable order under *Melinda K. v. Superior Court* (2004) 116 Cal.App.4th 1147, 1152-1154 because father was not aggrieved by the order, which found him in partial compliance with the court's orders

DISCUSSION

Family reunification is the primary goal in the initial stage of dependency proceedings. (*T.G. supra*, 188 Cal.App.4th at p. 696.) If the court orders reunification services, those services must be designed to eliminate the conditions that led the court to assume dependency jurisdiction. Therefore, a reunification plan must be based on the unique facts of each particular family. (*Ibid.*)

Once dependency jurisdiction has been assumed, review hearings are held every six months, at which time the court determines, among other things, whether DCFS has offered the parent reasonable reunification services. (§§ 366.21, subds. (e) & (f), 366.22, subd. (a); *Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594 (*Katie V.*).) DCFS must make a good faith effort to develop and implement a family reunification plan, and the record must show that it identified the problems that led to loss of custody, offered services designed to eliminate those problems, maintained reasonable contact with the parents during the reunification process, and made reasonable efforts to help the parents where compliance proved difficult. (*T.G., supra*, 188 Cal.App.4th at p. 697.)

The standard is not whether the services provided were the best in an ideal world but whether the services were reasonable. (*Katie V., supra*, 130 Cal.App.4th at pp. 598-599.) DCFS must prove by clear and convincing evidence that it provided reasonable reunification services. (§ 366.21, subd. (g)(1) & (2); *Katie V.*, at p. 594.) However, we determine whether substantial evidence supports the trial court's findings, reviewing the evidence in the light most favorable to the prevailing party and indulging in all legitimate and reasonable inferences to affirm the court's ruling. (*Id.* at p. 598.)

---

and also found a substantial probability the minors would be returned to him. However, even the *Melinda K.* court opted to treat the appeal as a writ petition because the reasonable-services finding could later be adverse to father. *Melinda K.* has since been called into question precisely because a six-month review finding that reasonable services were offered may in fact lead to adverse findings further on in the proceedings. (*In re T.G.* (2010) 188 Cal.App.4th 687, 693-696 (*T.G.*).) We choose to follow *T.G.* in this instance and consider the reasonable-services finding appealable.

Father contends he did not receive reasonable reunification services because despite the undisputed fact that he could not drive due to his epilepsy and therefore needed transportation funds, he did not receive those funds until late August 2013, a little more than two weeks before the six-month review hearing. When viewed under the applicable standard of review, the evidence shows otherwise.

Even where reunification services are delayed or otherwise imperfectly provided, those services may be found reasonable if the true obstacle to a parent's access to those services is his own conduct. In *In re Julie M.* (1999) 69 Cal.App.4th 41, the Court of Appeal affirmed a finding that reasonable services were provided to the mother even though her counseling services were interrupted for three months after her counselor's contract expired because the social worker wanted to wait for a psychological evaluation of mother. A new social worker directed mother to reenroll in a counseling program, but mother delayed doing so for two months because she was working two jobs. Quoting counsel for the minors, the *Julie M.* court held that mother, "[b]y her own volition, . . . avoided the services she was provided." (*Id.* at p. 48, fn. omitted.)

Similarly, in *Katie V., supra,* 130 Cal.App.4th 586, the Court of Appeal considered an appeal by the mother, who contended she had not received reasonable reunification services because child protective services did not provide her with reasonable visitation or adequate mental health services. The Court of Appeal affirmed a finding that reasonable reunification services had been provided because the agency made several attempts to reach mother's counselors to discuss side effects from her medication and because mother's visitation rights were suspended due to threats she made to the visitation monitor. The *Katie V.* court held that the real problem was not a lack of services " 'but a lack of initiative to consistently take advantage of the services that were offered.' " (*Id.* at p. 599, citation omitted.)

The record in this case supports a finding that father's failure to promptly enroll in substance abuse counseling was primarily a problem of his own making. When the minors were first detained, a social worker asked father if he would test for drugs. Father said he "did that already two years ago" from a previous dependency case and "I'm not

doing that again." When the social worker asked if father would enroll in substance abuse counseling, he said he "did that already too. They called me an alcoholic! Outpatient and inpatient. I did it all. I ain't doing those no more. I'm a good father. I take care of my kids and provide for them and that's it." In advance of a May 28, 2013, hearing, father told a social worker he did "not know why he had to do anything because the children were removed from mother."

Father received his first transportation check on August 27, 2013, but by late October had still not enrolled in a counseling program despite receiving many referrals from DCFS. Asked whether he had called any of the referrals, father told a social worker he was "in the middle of calling" when she phoned him. Father sounded agitated and intoxicated. Although father's counsel argued at the November 4, 2013, hearing that father had just enrolled in court ordered substance abuse counseling, no proof of enrollment was ever offered.

Father received $900 a month in public assistance and was able to visit his children regularly in the absence of transportation funds despite the fact that they did not live close by. Based on this the juvenile court could conclude that father's failure to enroll in substance abuse counseling was a product of his own recalcitrance and reluctance to ever go through counseling again, and was not caused by the DCFS policy change concerning the issuance of transportation funds to parents who lived outside Los Angeles County.

DISPOSITION

The order determining that father received reasonable reunification services is affirmed.

RUBIN, J.

WE CONCUR:

BIGELOW, P. J. FLIER, J.